

Private foundation self-dealing; paintings placed in disqualified person's residence. The placing of paintings owned by a private foundation in the residence of a substantial contributor, a disqualified person, constitutes an act of self-dealing under section 4941(d)(1)(E) of the Code.

Advice has been requested whether the placing of paintings owned by a private foundation in the residence of a disqualified person constitutes an act of self-dealing under section 4941(d)(1)(E) of the Internal Revenue Code of 1954.

After placing three of its paintings on exhibit in various museums for a number of years, the private foundation placed them in the residence of a substantial contributor, a disqualified person within the meaning of section 4946(a)(1)(A) of the Code. The paintings are displayed together with the disqualified person's large private art collection in a part of the residence devoted to paintings and other works of art.

The disqualified person exercises sole control over the public's access to his residence. On organized semiannual tours, an estimated 2,000 visitors are admitted to view the disqualified person's private collection and the foundation's paintings. In addition, special tours are arranged on occasion for small groups of persons associated with the arts.

Section 4941(d)(1)(E) of the Code provides that the term 'self-dealing' means any direct or indirect transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a private foundation.

Although the foundation's paintings are sometimes made available for public viewing, this placement in the residence of the disqualified person results in a direct use of the foundation's assets by or for the benefit of the disqualified person.

Accordingly, the display of paintings under the circumstances described above constitutes an act of self-dealing under section 4941(d)(1)(E) of the Code.